

**BEFORE THE
DIVISION OF MEDICAL QUALITY
MEDICAL BOARD OF CALIFORNIA
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA**

In the Matter of the Third Amended Accusation)
Against:)

Byron Crawford, M.D.)

MBC File # 18-1997-74448

Physician's & Surgeon's)
Certificate No. A-29605)

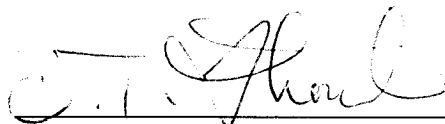
Respondent.)

**ORDER CORRECTING NUNC PRO TUNC
CLERICAL ERROR IN "LICENSE NUMBER" PORTION OF DECISION**

On its own motion, the Medical Board of California (hereafter "board") finds that there is a clerical error in the "license number" portion of the Decision in the above-entitled matter and that such clerical error should be corrected so that the license number will conform to the Board's issued license.

IT IS HEREBY ORDERED that the license number contained within the "Disciplinary Order" portion of the Stipulated Settlement, Pursuant to Business and Professions Code Section 822, for Issuance of an Inactive License, with Conditions for Reinstatement to Active Status in the above-entitled matter be and hereby is amended and corrected nunc pro tunc as of the date of entry of the decision to read as "A29605".

November 21, 2006



David T. Thornton, Executive Director
Division of Medical Quality
Medical Board of California

**BEFORE THE
DIVISION OF MEDICAL QUALITY
MEDICAL BOARD OF CALIFORNIA
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA**

**In the Matter of the Third Amended
Accusation Against:**

BYRON CRAWFORD, M.D.

File No. 18-1997-74448

**Physician's and Surgeon's
Certificate No. A-29605**

Respondent.

DECISION

The attached Stipulated Settlement, Pursuant to Business and Professions Code Section 822, for Issuance of an Inactive License, with Conditions for Reinstatement to Active Status is hereby adopted as the Decision and Order of the Division of Medical Quality of the Medical Board of California, Department of Consumer Affairs, State of California.

This Decision shall become effective at 5:00 p.m. on December 18, 2006.

IT IS SO ORDERED November 17, 2006.

MEDICAL BOARD OF CALIFORNIA

By: _____



**Cesar A. Aristeiguieta, M.D., Chair
Consolidated Panel
Division of Medical Quality**

BILL LOCKYER, Attorney General
of the State of California
THOMAS S. LAZAR, State Bar No. 120621
Supervising Deputy Attorney General
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Attorneys for Complainant

**BEFORE THE
DIVISION OF MEDICAL QUALITY
MEDICAL BOARD OF CALIFORNIA
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA**

In the Matter of the Third Amended
Accusation Against:

BYRON CRAWFORD, M.D.

Physician's and Surgeon's
Certificate No. A-29605

Respondent.

Case No. 18-1997-74448

**STIPULATED SETTLEMENT,
PURSUANT TO BUSINESS &
PROFESSIONS CODE SECTION 822,
FOR ISSUANCE OF AN INACTIVE
LICENSE, WITH CONDITIONS FOR
REINSTATEMENT TO ACTIVE
STATUS**

IT IS HEREBY STIPULATED AND AGREED by and between the parties to the
above-entitled matter that the following matters are true:

PARTIES

1. Complainant David T. Thornton is the Executive Director of the Medical
Board of California. He is represented in this matter by Bill Lockyer, Attorney General of the
State of California, by Beth Faber Jacobs, Deputy Attorney General.

2. Respondent, Byron Crawford, M.D. (respondent), is represented in this
matter by John D. Harwell, Esq., 225 27th Street, Manhattan Beach, California 90266.

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JURISDICTION

3. On September 26, 1975, the Medical Board of California (Board) issued Physician's and Surgeon's Certificate No. A 29605 to respondent. On or about May 19, 1999, the Board's Executive Director (Complainant) filed Accusation No. 18-97-74448 (Accusation) against respondent under Business and Professions Code section 822, alleging that respondent's ability to practice medicine safely was impaired due to mental illness or physical illness affecting his competency. The Accusation was filed after respondent contended he was completely and totally disabled from the practice of medicine. An administrative hearing was held on the Accusation on February 21, 2001. Respondent was represented by counsel. Complainant presented evidence, including expert testimony. Respondent testified, but did not present any expert testimony on his behalf. By its Decision After Nonadoption issued October 16, 2001 and effective November 16, 2001, the Medical Board concluded that respondent was mentally and physically impaired such that it affected his competency to practice medicine, and revoked respondent's license to practice medicine under Business and Professions Code section 822.

4. On or about December 14, 2001, respondent filed a petition for writ of mandate against the Medical Board to challenge the Board's revocation of his medical license, in *Byron Crawford v. Board of Medical Quality Assurance; Medical Board of California, etc.*, Los Angeles Superior Court, Case No. BS 073273. The matter was briefed by the parties, a hearing was set for March 5, 2002, and then continued to March 25, 2002.

5. On or about March 5, 2002, the parties entered into a Stipulation For Remand that was signed by the Superior Court as an Order on or about March 7, 2002. The purpose of the remand was to give respondent an additional opportunity to present expert testimony regarding his medical and/or mental condition and on whether his ability to practice medicine safely was impaired under Business and Professions Code section 822. As agreed in the Stipulation for Remand, the Court did not rule on the merits of respondent's mandate action.

6. Consistent with the Stipulation for Remand, on or about March 29, 2002, the Board issued an order entitled "Order Vacating Disciplinary Decision, Remanding Case to Administrative Law Judge and Imposing Probationary and Restricted License." Through that

1 Order, the Board placed respondent's license on probation and issued a restriction that prohibited
2 respondent from engaging in any conduct constituting the practice of medicine pending the
3 remand proceeding and further Order of the Board. The Order Vacating Disciplinary Decision,
4 Remanding Case to Administrative Law Judge and Imposing Probationary and Restricted
5 License has been in effect since March 29, 2002.

6 7. On March 15, 2002, pursuant to the Stipulation for Remand and Order,
7 respondent dismissed with prejudice his Superior Court matter in *Byron Crawford v. Board of*
8 *Medical Quality Assurance; Medical Board of California, etc.*, Los Angeles Superior Court Case
9 No. BS 073273.

10 8. On or about June 26, 2002, in contemplation of the remand hearing,
11 respondent underwent a psychiatric evaluation by James E. Rosenberg, M.D., who issued a
12 written report dated July 28, 2002. The parties disagreed and disagree about the usefulness of
13 Dr. Rosenberg's report, the sufficiency of the existing evidence concerning respondent's mental
14 and physical condition, and his ability to safely and competently practice medicine. Neither party
15 has requested that the matter be reset for hearing and the parties have attempted to resolve their
16 differences concerning these issues. Both parties agree that an additional and current medical
17 and psychiatric evaluations would be necessary to resolve the issues concerning respondent's
18 medical and mental condition.

19 9. Respondent has not practiced medicine since about 1995, does not wish to
20 schedule the remand hearing contemplated in the 2002 Superior Court Stipulation for Remand
21 and Order, and does not currently intend to practice medicine. However, respondent may wish to
22 practice medicine in the future. The purpose of this Stipulated Settlement, Pursuant to Business
23 and Professions Code section 822, for Issuance of an Inactive License, with Conditions for
24 Reinstatement to Active Status ("this Stipulation") is to resolve respondent's license status
25 without the need for further administrative proceedings, including the remand hearing previously
26 contemplated in the Superior Court Stipulation for Remand and the Board's March 29, 2002,
27 "Order Vacating Disciplinary Decision, Remanding Case to Administrative Law Judge, and
28 Imposing a Probationary and Restricted License." This Stipulation is also to modify

1 respondent's license status through the issuance of an inactive medical license, whereby
2 respondent may lawfully use the initials "M.D." after his name, but not be authorized to practice
3 medicine, and to impose conditions that delineate the method for and conditions of reinstatement
4 that respondent must satisfy if he ever wishes to restore his inactive medical license to an active
5 medical license. To that end, to protect the public, and to enable the parties to resolve their
6 differences without further administrative hearing, litigation or judicial review, the parties
7 stipulate to the following:

8 A. Because respondent's medical license is currently
9 restricted, he is not presently eligible for an inactive license pursuant to Business
10 and Professions Code sections 700 or 701. Therefore, to facilitate resolution of
11 this matter, the Division will terminate respondent's probation and the restrictions
12 placed on his license, and fully restore his certificate to an active one without
13 restrictions. Immediately upon the Division's issuance of a fully restored
14 certificate to respondent, the Division will issue respondent an inactive medical
15 license with conditions for reinstatement to an active license. As the holder of an
16 inactive license under Business and Professions Code section 701, respondent will
17 be required to pay a renewal fee, be permitted to use "M.D." after his name, but
18 not be permitted to engage in the practice of medicine, including, but not limited
19 to, engaging in any activity for which a license is required under the Business and
20 Professions Code, including but not limited to, sections 2051 or 2264, or engage
21 in any activity prohibited under sections 2052, 2052.5, 2053.5, 2054, or 2264; nor
22 may respondent issue a prescription for any dangerous drug, device or controlled
23 substance to any patient or to himself.

24 B. In exchange for the Division's termination of respondent's
25 probationary status, its restoration of his license to one without restrictions, and its
26 issuance of an inactive license pursuant to this Stipulation, respondent agrees
27 there shall be additional conditions for reinstatement to an active license, beyond
28 those identified in Business and Professions Code section 704, should respondent

1 ever desire to restore his license to an active status. In order to restore his license
2 to an active status, the parties agree that respondent must formally petition for
3 reinstatement under Business and Professions Code sections 822 and 823. Upon
4 filing such a petition, respondent will have the burden of demonstrating the
5 absence or control of the conditions that caused his earlier claim of disability
6 giving rise to Accusation No. 18-1997-74448, the burden of demonstrating to the
7 satisfaction of the Division of Medical Quality he can safely practice medicine
8 from a medical and psychiatric standpoint, and the burden of demonstrating he has
9 current medical competence that enables him to safely and competently practice as
10 a physician.

11 C. The parties agree that the Order at the conclusion of this
12 Stipulation shall include a process respondent must satisfy to meet his burden,
13 outlined in the portion of the Order entitled "Process for Seeking Reinstatement to
14 an Active License." The parties further agree that the Board and its Division
15 retain full authority under Business and Professions Code section 823 to impose
16 any terms and conditions on the issuance of an active license consistent with
17 information and evidence obtained from that process outlined in the Order below.

18 **ADVISEMENT, WAIVER AND RELEASE**

19 10. Respondent acknowledges that he has carefully read and is voluntarily,
20 knowingly, and intelligently entering into this Stipulated Settlement, Pursuant to Business &
21 Professions Code Section 822, for Issuance of an Inactive License, With Conditions For
22 Reinstatement to Active Status.

23 11. Respondent understands and agrees that the resolution reached in this
24 Stipulation shall resolve all issues concerning Accusation No. 18-1997-74448, including, but not
25 limited to the remand hearing contemplated in the Superior Court Stipulation for Remand and
26 Order (in *Byron Crawford v. Board of Medical Quality Assurance; Medical Board of California,*
27 *etc.*, Los Angeles Superior Court, Case No. BS 073273), and the Board's March 29, 2002 Order

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1 Vacating Disciplinary Decision, Remanding Case to Administrative Law Judge, and Imposing a
2 Probationary and Restricted License in Accusation No. 18-1997-74448.

3 12. Respondent is fully aware of his legal rights in these matters, including,
4 but not limited to, his right to a remand hearing in administrative case No.18-1997-74448 in
5 accordance with the Superior Court Stipulation for Remand and Order (in *Byron Crawford v.*
6 *Board of Medical Quality Assurance; Medical Board of California, etc.*, Los Angeles Superior
7 Court, Case No. BS 073273), and the Board's March 29, 2002 Order Vacating Disciplinary
8 Decision, Remanding Case to Administrative Law Judge, and Imposing a Probationary and
9 Restricted License in Accusation No. 18-1997-74448, his right to reconsideration and judicial
10 review of an adverse decision on remand; his rights under the California Administrative
11 Procedure Act within the California Government Code, his rights under the California Code of
12 Civil Procedure, and all other applicable state and federal laws. Respondent, having the benefit
13 of counsel, hereby knowingly, intelligently, and voluntarily waives every right set forth above.

14 13. Respondent acknowledges he has consulted with his attorney regarding
15 this Stipulation and its effect, including the result that he will not be permitted to practice
16 medicine in California with an inactive medical license, that he will be required to petition for
17 reinstatement under Business and Professions Code sections 822 and 823 should he ever wish to
18 restore his medical license to an active status, and that should he so petition, he will have the
19 burden of demonstrating he is medically and psychiatrically capable of practicing medicine safely
20 and that he has current medical competence to enable him to safely and competently practice
21 medicine.

22 **PUBLIC DISCLOSURE**

23 14. Respondent is aware and understands there will be full public disclosure of
24 this Stipulation including, but not limited to, a link to this document from the Board's Internet
25 Web site, consistent with Business and Professions Code section 803.1, 2027, and 2227, and any
26 required reporting to the National Practitioner Data Bank and Federation of State Medical
27 Boards.

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ADDITIONAL PROVISIONS

16. This Stipulation is intended by the parties to be an integrated writing

17. The parties agree that facsimile copies of this Stipulation, including

18. In consideration of the foregoing, the parties agree that the Division shall,

ORDER

IT IS HEREBY ORDERED that, in resolution of the above-entitled matter, the

7

1 orders that additional terms and conditions shall be required for reinstatement to an active status,
2 as outlined below:

3 **PROCESS FOR SEEKING REINSTATEMENT TO ACTIVE LICENSE**

4 In the event respondent ever applies to restore his license status from inactive to
5 active, his application shall be considered a Petition for Reinstatement of Licensure under section
6 823, for an individual whose license has been revoked or suspended under section 822 due to a
7 medical or psychiatric condition affecting competency. The burden will be on respondent to
8 demonstrate by competent evidence of the absence or control of the condition or conditions that
9 impaired his ability to practice medicine safely, to demonstrate by competent evidence that he
10 does not have a mental or physical impairment affecting competency, to demonstrate his current
11 competency as a physician and provide evidence to the satisfaction of the Division that with due
12 regard for the public health and safety, respondent's right to practice medicine may be safely
13 reinstated.

14 Such competent evidence shall be demonstrated and respondent's burden met if
15 the evidence elicited from the following four components (all of which are terms and conditions
16 precedent to reinstatement to an active license), all support the conclusion that respondent does
17 not have a mental or physical impairment affecting competency, that he has current competency
18 as a physician, and that with due regard for the public health and safety, respondent's right to
19 practice medicine may be safely reinstated. Should respondent fail to satisfactorily complete or
20 pass any of these components, respondent has not met his burden.

21 The Division shall consider any restrictions, limitations, conditions, or
22 requirements recommended by any of the evaluators or assessors participating in the following
23 components of respondent's conditions precedent for seeking reinstatement to an active license.
24 Pursuant to Business and Professions Code section 823, the Board may place terms and
25 conditions on the issuance of an active license for respondent consistent with evidence arising
26 from his participation in the following process:

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1 **1. Neuropsychological Evaluation**

2 Respondent shall undergo a neuropsychological evaluation (including
3 psychological testing if deemed necessary) by a Division-appointed physician,
4 who shall furnish an evaluation report to the Division or its designee that
5 respondent is mentally competent to safely resume the practice of medicine in
6 California. The report shall also identify if any restrictions or limitations on the
7 extent, scope or type of practice are recommended or not recommended. In
8 addition, the report shall identify if any course of treatment is recommended or not
9 recommended. Respondent shall pay the cost of this evaluation. The parties
10 agree that the Division shall appoint Mark Kalish, M.D. to conduct the evaluation
11 if Dr. Kalish's medical license is current, active, and unrestricted, and Dr. Kalish
12 is reasonably available for conducting a neuropsychological evaluation. If not, the
13 Division shall appoint another physician for the evaluation. As of the signing of
14 this Stipulation, Dr. Kalish's business address is 3131 Camino Del Rio North,
15 Suite 270, San Diego, CA, 92108; his telephone number is (619) 282-7172.

16 **2. Medical Evaluation**

17 Respondent shall undergo a medical evaluation by a Division-appointed
18 physician who shall furnish a medical report to the Division or its designee that
19 Respondent is physically capable of safely resuming the practice of medicine in
20 California. The report shall identify if any course of treatment is recommended or
21 not recommended. The report shall also identify if any restrictions or limitations
22 on the extent, scope or type of practice are recommended or are not
23 recommended. Respondent shall pay the cost of this medical evaluation.

24 **3. PACE Assessment & Clinical Education Course**

25 Respondent shall, at his expense, enroll in and successfully complete the
26 Physician Assessment and Clinical Education Program at the University of
27 California, San Diego School of Medicine (the "PACE Program.") The Program
28 shall consist of a comprehensive two-day assessment of respondent's physical and

1 mental health, basic clinical and communication skills common to all clinicians,
2 and medical knowledge, skill and judgment pertaining to respondent's specialty or
3 sub-specialty, and at a minimum, a 40 hour program of clinical education in
4 respondent's area of practice that takes into account data obtained from the
5 assessment and any other information that the Division or its designee deems
6 relevant.

7 Based on respondent's performance and test results in the assessment and
8 clinical education, the Program will advise the Division or its designee of its
9 recommendation or recommendations for the scope and length of any additional
10 education or clinical training, treatment for any medical condition, treatment for
11 any psychological condition, or anything else affecting respondent's practice of
12 medicine. The Division may order respondent to undergo additional education,
13 medical and/or psychological treatment based upon the recommendations received
14 from PACE.

15 At the completion of the PACE Program, respondent shall submit to an
16 examination on its contents and substance. The examination shall be designed
17 and administered by the PACE Program faculty. The examination may involve an
18 oral clinical or written examination, or both, as determined by PACE.

19 Respondent shall not be deemed to have successfully completed the program
20 unless he passes the examination.

21 The Division or its designee may at any time request information from
22 PACE regarding the respondent's participation in PACE and respondent hereby
23 authorizes PACE to provide it to the Division or its designee. Respondent agrees
24 that the PACE Program shall notify the Division or its designee about
25 respondent's performance in the PACE Program and whether he has successfully
26 completed it, including the examination referenced above. If respondent
27 successfully completes the PACE Program, including the examination referenced
28 above, he agrees to direct the PACE Program representative to forward a

1 Certification of Successful Completion of the Program to the Division or
2 designee.

3 If respondent petitions for reinstatement of an active license at a time
4 when the PACE Program is no longer in existence as a comprehensive assessment
5 and training program as described above, respondent shall, at his expense and at
6 the Division's discretion, enroll in and successfully complete an alternative
7 comprehensive assessment and clinical training program substantially equivalent
8 to the PACE Program and approved by the Division.

9 **4. Written Examination**

10 Respondent shall take and pass the Special Purpose Examination (SPEX)
11 or equivalent examination as determined by the Division or its designee. If
12 respondent fails the first examination, respondent shall be allowed to take a
13 second examination. The waiting period between the first and second
14 examinations shall be at least three (3) months. If respondent fails to pass the first
15 and second examinations, respondent may take a third and final examination after
16 waiting a period of one (1) year. Respondent shall pay the costs of all such
17 examinations.

18 **THE IMPOSITION OF TERMS AND CONDITIONS UPON THE ISSUANCE OF AN**
19 **ACTIVE LICENSE TO RESPONDENT**

20 If the evidence elicited from the foregoing methods of independent evaluation all
21 supports the conclusion that respondent does not have a mental or physical impairment affecting
22 competency, that he has current competency as a physician, and that with due regard for the
23 public health and safety, respondent's right to practice medicine may be safely reinstated, the
24 Division shall restore respondent's license to an active status.

25 Pursuant to its authority under Business and Professions Code section 823, the
26 Division may impose any restrictions, limitations, conditions, or requirements recommended by
27 or consistent with evidence from respondent's participation in the process for reinstatement to an
28 active license outlined in this Order.

1 Furthermore, if respondent's license is restored to an active status and he is
2 permitted to resume the practice of medicine in California, respondent shall be placed on
3 probation for thirty-five (35) months with oversight by the Medical Board's Probation
4 Surveillance Program, unless a lengthier period is recommended by an evaluator in the
5 reinstatement process described above, in which case the Division may order a lengthier period
6 of probation consistent with that recommendation. Respondent shall pay the annual cost of this
7 probation oversight. Respondent may petition for modification or early termination of probation
8 after at least one year of probation.

9 **ADDITIONAL PROVISION REGARDING CONTINUING EDUCATION**

10 If respondent wishes to have a waiver of his Continuing Medical Education
11 requirements while he maintains an inactive license, respondent shall complete and submit for
12 approval to the Division an Application for Continuing Medical Education Waiver (Form CME-
13 1W) and comply with its requirements.

14 **ACCEPTANCE**

15 I have carefully read this Stipulation and enter into it voluntarily, knowingly and
16 intelligently. I understand the effect this Stipulation will have on my Physician's and Surgeon's
17 Certificate No. A 29605. I also understand I will no longer be permitted to practice medicine in
18 California once this Stipulation has been adopted by the Division. I understand that in order to
19 restore my license to an active status, I must petition for reinstatement under Business and
20 Professions Code sections 822 and 823 and demonstrate I am mentally and physically capable of
21 safely practicing medicine and that I have current competence to safely practice medicine, as
22 more fully set out in pages 7 through 12, above, and, that if my license is reinstated to an active
23 status, there will be probationary terms and conditions placed on my Physician's and Surgeon's
24 Certificate No. A 29605.

25
26 DATED: _____

BYRON CRAWFORD, M.D.
Respondent

Furthermore, if respondent's license is restored to an active status and he is permitted to resume the practice of medicine in California, respondent shall be placed on probation for thirty-five (35) months with oversight by the Medical Board's Probation Surveillance Program, unless a lengthier period is recommended by an evaluator in the reinstatement process described above, in which case the Division may order a lengthier period of probation consistent with that recommendation. Respondent shall pay the annual cost of this probation oversight. Respondent may petition for modification or early termination of probation after at least one year of probation.

ADDITIONAL PROVISION REGARDING CONTINUING EDUCATION

If respondent wishes to have a waiver of his Continuing Medical Education requirements while he maintains an inactive license, respondent shall complete and submit for approval to the Division an Application for Continuing Medical Education Waiver (Form CME-1W) and comply with its requirements.

ACCEPTANCE

I have carefully read this Stipulation and enter into it voluntarily, knowingly and intelligently. I understand the effect this Stipulation will have on my Physician's and Surgeon's Certificate No. A 29605. I also understand I will no longer be permitted to practice medicine in California once this Stipulation has been adopted by the Division. I understand that in order to restore my license to an active status, I must petition for reinstatement under Business and Professions Code sections 822 and 823 and demonstrate I am mentally and physically capable of safely practicing medicine and that I have current competence to safely practice medicine, as more fully set out in pages 7 through 12, above, and, that if my license is reinstated to an active status, there will be probationary terms and conditions placed on my Physician's and Surgeon's Certificate No. A 29605.

DATED: Sept 12th, 2006: Byron Crawford, M.D.
BYRON CRAWFORD, M.D.
Respondent

1 I have reviewed and fully discussed this Stipulated Settlement, Pursuant to
2 Business and Professions Code section 822, for Issuance of an Inactive License, with Conditions
3 For Reinstatement of Active License, with my client, Byron Crawford, M.D., and have consulted
4 with him regarding its effect on his medical license. I approve its form and content.

5
6 DATED: 9/12/06

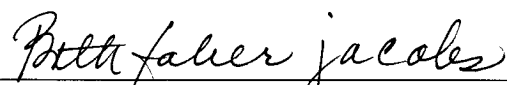

JOHN HARWELL, Esq.
Attorney for Respondent
Byron Crawford, M.D.

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10 **ENDORSEMENT**

11 The foregoing Stipulated Settlement, Pursuant to Business and Professions Code
12 section 822, for Issuance of an Inactive License, With Conditions For Reinstatement to Active
13 Status, is hereby respectfully submitted for consideration by the Division of Medical Quality,
14 Medical Board of California of the Department of Consumer Affairs.

15
16 DATED: October 3, 2006.

BILL LOCKYER, Attorney General
of the State of California


BETH FABER JACOBS,
Deputy Attorney General

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21 Attorneys for David T. Thornton,
22 Executive Director,
23 Medical Board of California
24 Complainant
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**BEFORE THE
DIVISION OF MEDICAL QUALITY
MEDICAL BOARD OF CALIFORNIA
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA**

In the Matter of the Accusation Against:)

BYRON D. CRAWFORD, M.D.)

File No. 18-1997-74448

**Physician's and Surgeon's)
Certificate No. A 29605)**

Respondent.)

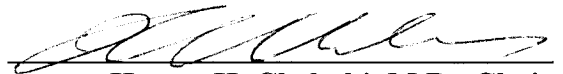
**ORDER VACATING DISCIPLINARY DECISION,
REMANDING CASE TO ADMINISTRATIVE LAW
JUDGE, AND IMPOSING PROBATIONARY
AND RESTRICTED LICENSE**

By decision dated October 16, 2001, with an effective date of November 15, 2001, respondent was disciplined by the Division of Medical Quality, Medical Board of California.

In accordance with Government Code Section 11517(c) and the Stipulation for Remand and Order issued in the matter of Byron D. Crawford v. Board of Medical Assurance; Medical Board of California, Department of Consumer Affairs, State of California, Los Angeles County Superior Court Case No. BS 073273 (a copy of which is attached and incorporated by reference), the Division of Medical Quality of the Medical Board of California hereby vacates and sets aside its decision of November 15, 2001. Additionally, the above-captioned case is remanded to the administrative law judge for further proceedings consistent with paragraphs 2(b) and 2(c) of the Stipulation for Remand and Order.

Pursuant to paragraph 2(e) of the Stipulation for Remand and Order, respondent's license is hereby reinstated as probationary and restricted whereby the respondent is not permitted to practice medicine or engage in any conduct that would be considered the unlawful practice of medicine under Business and Professions Code section 2052 if he were not licensed at the time. Unless the Board gives respondent written permission to engage in the practice of medicine before the effective date of the Decision following remand, any practice of medicine by respondent during this period will be considered a violation of probation.

DATED: March 29, 2002



**Hazem H. Chehabi, M.D., Chair
Panel A**

**DIVISION OF MEDICAL QUALITY
MEDICAL BOARD OF CALIFORNIA**

1 BILL LOCKYER, Attorney General
of the State of California
2 BETH FABER JACOBS, (State Bar No. 89145)
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4 P.O. Box 85266
San Diego, CA 92186-5266
5 Telephone: (619) 645-2069
Facsimile: (619) 645-2061

6 Attorneys for Respondent,
7 Medical Board of California

ORIGINAL FILED

MAR 07 2002

LOS ANGELES
SUPERIOR COURT

8
9 SUPERIOR COURT OF THE STATE OF CALIFORNIA

10 COUNTY OF LOS ANGELES

11
12 BYRON D. CRAWFORD,

13 Petitioner,

14 v.

15 BOARD OF MEDICAL QUALITY
ASSURANCE; MEDICAL BOARD OF
16 CALIFORNIA, DEPARTMENT OF
CONSUMER AFFAIRS, STATE OF
17 CALIFORNIA,

18 Respondents.

CASE NO. Case No: BS 073273

STIPULATION FOR REMAND and ORDER

Date: March 25, 2002

Time: 9:30 a.m.

Dept: 85

19 The parties, petitioner Byron Crawford, and respondent, the Medical Board of
20 California, (hereafter "Board" or "respondent"), by and through their respective counsel, hereby
21 stipulate to the following:

22 1. On or about May 19, 1999, respondent Medical Board filed Accusation No.
23 18-97-74448 against petitioner under Business and Professions Code section 822, alleging that
24 petitioner's ability to practice medicine safely is impaired because his is mentally ill, or
25 physically ill affecting competency. An administrative hearing on the Accusation was held on
26 February 21, 2001. The Medical Board presented evidence, including expert testimony.
27 Petitioner testified, but did not present any expert testimony on his behalf. By its Decision After
28 Non-Adoption issued October 16, 2001 and effective November 16, 2001, the Board revoked

1 petitioner's license to practice medicine under section 822. On or about December 14, 2001,
2 petitioner filed a petition for writ of mandate against respondent Board to set aside the
3 revocation. Petitioner filed his moving papers; the Board filed its opposition on February 14,
4 2001, and petitioner filed its Reply on or about February 22, 2002. Petitioner also filed
5 additional documents thereafter. The mandate hearing was set for March 5, 2002, and by
6 stipulation, has been continued to March 25, 2002.

7 2. One of the documents petitioner filed and served on or about February 25,
8 2002, is his Declaration and an attached letter from his physician regarding his medical status.
9 The parties dispute the admissibility of the new evidence under Code of Civil Procedure, section
10 1094.5(e.) The parties, however, wish to resolve this matter without further litigation or court
11 appearance. Therefore, through their respective counsel, the parties agree as follows:

12 a. The parties request that the Superior Court, without ruling on any
13 aspect of the case, remand the matter to the Medical Board, thereby giving the
14 Board jurisdiction to take further action;

15 b. The purpose of the remand is to permit petitioner an additional
16 opportunity to present expert testimony (not his own testimony) regarding his
17 medical and/or mental condition and whether his ability to practice medicine
18 safely is impaired under Business and Professions Code section 822 because of a
19 mental and/or physical illness.

20 c. Therefore, respondent Medical Board agrees that upon remand, it will
21 vacate the Decision revoking petitioner's license and refer the case it to an
22 administrative law judge for the taking of additional evidence consistent with the
23 purpose of the remand. It is the intent of the parties to hold this remand hearing at
24 a mutually agreed upon date within the next three months. Petitioner will obtain,
25 at his own expense, reports from any physician petitioner intends to call on his
26 behalf at the hearing. All evidence discoverable under Government Code section
27 11507.6 must be served on the Board by a mutually agreed upon date or by a date
28 determined by an administrative law judge. The parties agree that petitioner will

1 not offer himself nor testify as an expert witness. Petitioner may call any other
2 experts on his behalf in support of his position; however, respondent reserves the
3 right to object on any appropriate legal basis, including the basis that the proffered
4 evidence is cumulative. Respondent will have the opportunity to cross examine
5 and present rebuttal testimony at the remand hearing. The administrative law
6 judge will issue a proposed decision in light of the entire record, including the
7 evidence introduced during the February 21, 2001 hearing and the evidence
8 introduced on remand, and the matter will proceed under Government Code
9 section 11517(b). Petitioner retains all rights under the Administrative Procedure
10 Act (Government Code section 11500, et. seq.) and under the Code of Civil
11 Procedure section 1094.5 to seek reconsideration and/or judicial review of the
12 Board's final Decision if he is dissatisfied with its Decision following remand.

13 d. In exchange, by 4:00 p.m. March 5, 2002, petitioner Byron Crawford
14 will take the Superior Court mandate hearing off calendar, fax respondent
15 confirmation that it is off calendar and fax respondent the signature page of this
16 stipulation with his signatures and that of his attorney. Within ten days of receipt
17 of the Stipulation and Order signed by the Court, petitioner shall dismiss this
18 Superior Court mandate action with prejudice. Petitioner shall furnish the Board
19 with a conformed copy of the document showing the entry of Dismissal.

20 e. As part of this stipulation, petitioner also agrees that until the effective
21 date of the Board's Decision following remand, he will not engage in the practice
22 of medicine. Petitioner will have a restricted and probationary license whereby he
23 is not permitted to practice medicine or engage in any conduct that would be
24 considered the unlawful practice of medicine under Business and Professions
25 Code section 2052 if he were not licensed at the time. Unless the Board gives
26 petitioner written permission to engage in the practice of medicine before the
27 effective date of the Decision following remand, any practice of medicine by
28 petitioner during this period will be considered a violation of probation.

1 f. This Stipulation will be void and unenforceable if petitioner fails, by
2 4:00 p.m. March 5, 2002, to take the matter off calendar, to fax confirmation that
3 it is off calendar, and to fax the signed signature pages of this stipulation to
4 respondent; if the Superior Court fails to adopt the Stipulation by signing it as an
5 Order; if petitioner fails to file the Request for Dismissal with prejudice; or, if
6 petitioner fails to send a conformed copy of the Dismissal with prejudice to Respondent
7 Board.

8 g. Each party will bear his or its own costs.

9 h. The parties agree that a fax copy of a signature shall be accepted as an
10 original signature.

11
12 Dated: _____

BYRON CRAWFORD
Petitioner

13
14 Dated: 3/7/02

Karen Larson
KAREN LARSON, Esq.
Attorney for Petitioner

15
16
17
18
19 Dated: March 5, 2002

By

BILL LOCKYER, Attorney General

Beth Faber Jacobs
BETH FABER JACOBS
Deputy Attorney General
Attorney for Respondent Medical Board

20
21
22 **ORDER**

23 GOOD CAUSE APPEARING, the Stipulation For Remand is hereby approved.
24 The matter is hereby remanded to the Medical Board for action in conformity with this
25 Stipulation.

26
27 DATED: 3-7-02

DZINTRA I. JANAVS

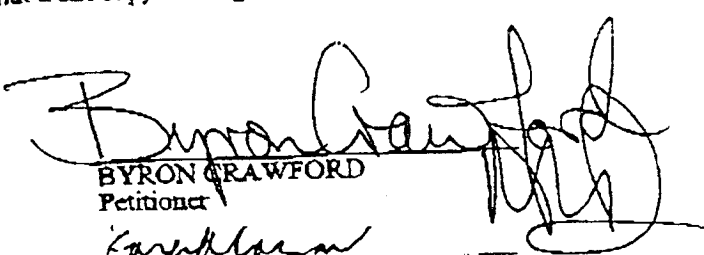
JUDGE OF THE SUPERIOR COURT

f. This Stipulation will be void and unenforceable if petitioner fails, by 4:00 p.m. March 5, 2002, to take the matter off calendar, to fax confirmation that it is off calendar, and to fax the signed signature pages of this stipulation to respondent; if the Superior Court fails to adopt the Stipulation by signing it as an Order; if petitioner fails to file the Request for Dismissal with prejudice; or, if petitioner fails to send a conformed copy of the Dismissal with prejudice to Respondent Board.


g. Each party will bear his or its own costs.

h. The parties agree that a fax copy of a signature shall be accepted as an original signature.

Dated: 3-05-02


BYRON CRAWFORD
Petitioner

Dated: 3-05-02


KAREN LARSON, Esq.
Attorney for Petitioner

BILL LOCKYER, Attorney General

Dated: _____

By

BETH FABER JACOBS
Deputy Attorney General
Attorney for Respondent Medical Board

ORDER

GOOD CAUSE APPEARING, the Stipulation For Remand is hereby approved.

The matter is hereby remanded to the Medical Board for action in conformity with this Stipulation.

DATED: _____

JUDGE OF THE SUPERIOR COURT

Mar-18-02 17:53

3106426910

P.02

ATTORNEY OR PARTY WITHOUT ATTORNEY (Name and Address) Edward O. Lear, State Bar #13269 (310) 642-6900 Karen A. Larson, State Bar #200786 5200 W. Century Boulevard, Suite 940 Los Angeles, California 90045		TELEPHONE NO. 310 642-6900	FOR COURT USE ONLY ORIGINAL FILED MAR 15 2002 LOS ANGELES SUPERIOR COURT
ATTORNEY FOR (Name): <u>Petitioner Bryon Crawford</u> Insert name of court and name of judicial district and branch court, if any. Los Angeles Superior Court Central District			
PLAINTIFF/PETITIONER: BYRON D. CRAWFORD, M.D. DEFENDANT/RESPONDENT: BOARD OF MEDICAL QUALITY ASSURANCE ET AL.			
REQUEST FOR DISMISSAL <input type="checkbox"/> Personal Injury, Property Damage, or Wrongful Death <input type="checkbox"/> Motor Vehicle <input type="checkbox"/> Other <input type="checkbox"/> Family Law <input type="checkbox"/> Eminent Domain <input checked="" type="checkbox"/> Other (specify): <u>Writ of Mandate</u>		CASE NUMBER: BS 073273	

— A conformed copy will not be returned by the clerk unless a method of return is provided with the document. —

1. TO THE CLERK: Please dismiss this action as follows:

- a. (1) ☒ With prejudice (2) ☐ Without prejudice
- b. (1) ☐ Complaint (2) ☐ Petition
 (3) ☐ Cross-complaint filed by (name):
 (4) ☐ Cross-complaint filed by (name):
 (5) ☒ Entire action of all parties and all causes of action Writ of Mandate
 (6) ☐ Other (specify):*

on (date):

on (date):

Date: March 14, 2002

Edward O. Lear, State Bar #132699

(TYPE OR PRINT NAME OF ☒ ATTORNEY ☐ PARTY WITHOUT ATTORNEY)

200786
Karen A. Larson in Edward Lear
 (SIGNATURE)
 Attorney or party without attorney for: Byron Crawford

* If dismissal requested is of specified parties only, of specified causes of action only, or of specified cross-complaints only, so state and identify the parties, causes of action, or cross-complaints to be dismissed.

☒ Plaintiff/Petitioner ☐ Defendant/Respondent
☐ Cross-complainant

2. TO THE CLERK: Consent to the above dismissal is hereby given.**

Date:

(TYPE OR PRINT NAME OF ☐ ATTORNEY ☐ PARTY WITHOUT ATTORNEY)

(SIGNATURE)
 Attorney or party without attorney for:

** If a cross complaint - or Response (Family Law) seeking affirmative relief - is on file, the attorney for cross-complainant (respondent) must sign this consent if required by Code of Civil Procedure section 581(i) or (j)

☐ Plaintiff/Petitioner ☐ Defendant/Respondent
☐ Cross-complainant

(To be completed by clerk)

3. ☐ Dismissal entered as requested on (date): MAR 15 2002
4. ☐ Dismissal entered on (date): as to only (name):
5. ☐ Dismissal not entered as requested for the following reasons (specify):

6. a. Attorney or party without attorney notified on (date):
 b. Attorney or party without attorney not notified. Filing party failed to provide
☐ a copy to conform ☐ means to return conformed copy

Date:

MAR 15 2002

Clerk, by ARACELI GODINEZ, Deputy

**BEFORE THE
DIVISION OF MEDICAL QUALITY
MEDICAL BOARD OF CALIFORNIA
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA**

In the Matter of the Accusation Against:)	Case No. 18-1997-74448
)	
BYRON D. CRAWFORD, M.D.,)	OAH Case No.: L-1999070120
)	
Physician's and Surgeon's Certificate)	
Number A-29605)	
)	
Respondent.)	
_____)	

DECISION AFTER NONADOPTION

Joseph D. Montoya, Administrative Law Judge, Office of Administrative Hearings, heard this case at Los Angeles, California on February 20, 2001. Complainant was represented by Mr. Steven V. Adler , Deputy Attorney General. Respondent appeared with his attorneys, Gerry & Lear, by Mr. Edward O. Lear.

Evidence was received, the matter argued, and the case was submitted for decision on the hearing date.

The proposed decision of the administrative law judge was submitted to the Division of Medical Quality, Medical Board of California (hereafter "division") on March 22, 2001. After due consideration thereof, the division declined to adopt the proposed decision and thereafter on May 15, 2001 issued an Order of Nonadoption and subsequently issued an Order Fixing Date for Submission of Written Argument. On August 9, 2001, the division issued a Notice of time for Oral Argument. Oral argument was heard on October 4, 2001. The time for filing written argument in this matter having expired, written argument having been filed by both parties and such written argument, together with the entire record, including the transcript of said hearing, having been read and considered, pursuant to Government code Section 11517, Panel A of the division hereby makes the following decision and order:

FACTUAL FINDINGS

A. Jurisdiction:

1. Complainant Ron Joseph filed the accusation in the above-captioned matter while acting in his official capacity as Executive Director of the Medical Board of California (“the Board”).

2. On or about September 26, 1975, the Board issued Physician and Surgeon’s Certificate number A 29605 to Respondent Byron D. Crawford, M.D. That license was in full force and effect at all times relevant to this decision, and is otherwise valid through April 30, 2003.

3. This proceeding was instituted before the Board’s Division of Medical Quality pursuant to provisions of the California Business and Professions Code¹, and primarily section 822 thereof. In essence, Complainant alleged that Respondent suffers some impairment resulting from mental or physical illness, and that such affects his competency to act as a physician. Respondent denied those charges, and pursuant to the Code the matter was set for hearing before the undersigned, an administrative law judge of the Office of Administrative Hearings.

4. All jurisdictional requirements have been met in this proceeding.

B. Findings On the Charging Allegations:

5. In January 1995 Respondent Crawford filed a claim with an insurance company for payments on a disability insurance policy. His written claim, entitled “Claimant’s Statement for Disability Benefits”, stated Respondent was totally disabled, and unable to practice medicine or administer his medical corporation and practice. Respondent executed that claim under penalty of perjury. His insurer failed and/or refused to provide benefits under the policy, and Respondent therefor filed a lawsuit against his insurer. The suit was filed in the United States District Court for the Central District of California.²

6. During the course of the lawsuit depositions were taken of Respondent and two physicians who had examined him. All three provided evidence that Respondent was not then competent and fit to practice medicine.

(A) Respondent gave deposition testimony on February 10, 1997. In the course of his deposition, he testified that he was then not competent to practice medicine, and

¹ Hereafter all statutory references shall be to the Business and Professions Code, cited as “Code”, along with the appropriate section number, unless otherwise noted.

² No evidence was provided regarding the outcome of the litigation.

he provided evidence tending to establish that his abilities were impaired. He gave reasons for his belief, including:

(i) That in his then current medical or physical state, he was not competent to practice medicine, in part because he was having trouble staying awake;

(ii) That he had given his father power of attorney, to help in the management of his affairs, in part because Respondent's memory and judgment had degraded, and because Respondent's health was not up to running his medical practice;

(iii) That he had been unable to complete applications for locum tenens work because he would fall asleep while trying to complete the application;

(iv) He could not remember the name of any of the doctors who had worked with him in his clinic;

(v) That a doctor who had examined and treated him diagnosed Respondent's condition as early onset Alzheimer's.

6. (B) Two weeks after Respondent so testified, one of his physicians gave his deposition. On February 25, 1997, Dr. Morris Grabie, M.D. attested that he had examined Respondent and diagnosed him with dementia. That witness, Board-Certified in internal medicine and nephrology, further testified that:

(i) Respondent's condition was characterized by significant memory loss, including the inability to remember recent and simple events, such as why Respondent had come to the doctor's office. He further testified that Respondent could not recall information needed for day-to-day functions;

(ii) The witness was concerned that Respondent had damage to the frontal lobes of his brain, and an MRI performed by another physician showed, in the witness's opinion, conditions consistent with mild generalized cerebral atrophy;

(iii) Dr. Grabie had previously given a statement in writing to the effect Respondent was not then competent, and testified at the deposition that Respondent was not competent to practice medicine. Nor did not think it was safe for Respondent to drive his car.

6. (C) Dr. Gregory Walsh, M.D. gave his deposition April 23, 1997. Like Dr. Grabie, Dr. Walsh is also a Board-Certified physician, but in the areas of neurology and neuro-imaging. He testified at his deposition that Respondent had Alzheimer's disease. He also testified that:

(i) His opinion was based in part on evidence of brain atrophy, and he opined that Respondent should not be allowed to practice as a psychiatrist;

(ii) He also testified that Respondent was disabled from any significant cognitive function;

(iii) In part, Dr. Walsh's diagnosis was based on information provided by a physician-friend of the Respondent's, who informed the witness that Respondent's cognitive functioning had diminished.

7. The accusation in this case was filed in May 1999. Thereafter, the Board ordered Respondent to be tested by a clinical psychologist, a psychiatrist, and a physician specializing in clinical neurophysiology. Respondent was evaluated by those professionals in July and December 1999.

8. (A) In July 1999 Dr. Baldev Rai, M.D., evaluated Respondent. Dr. Rai is Board certified in neurology, with a specialty in neurophysiology. He did not find evidence of Alzheimer's or dementia, and did not find any definite physical or mental impairment that would prevent Respondent from safely practicing medicine.

(B) In December 1999 Respondent was evaluated by Darlene M. Skorka, Ph.D., a clinical psychologist. She found some that some indicators from a measured intelligence exam were "suggestive of neuropsychological impairment." Other tests gave similar indications, of mild to moderate proportions. She could not determine if the impairment was acute or chronic, temporary or permanent. She advised that if he returned to the practice of medicine, Dr. Crawford should do so in a supervised capacity so that his performance could be evaluated.

(C) (i) Respondent was examined by Dr. Carole Lieberman, M.D., M.P.H., in July 1999. Dr. Lieberman is a psychiatrist, and she spent several hours interviewing Respondent and administering tests to him. Before issuing a written report in February 2000 she reviewed medical records and documents pertaining to the disability claim, including the transcripts of the depositions referenced above. She also reviewed the report of Dr. Melvin Schwartz, M.D., a psychiatrist that had reviewed Respondent's records for the Board, prior to instigation of this proceeding, and she reviewed the reports issued by Doctors Rai and Skorka.

(ii) Dr. Lieberman's main diagnosis was of major depression, although she did not rule out the possibility of bipolar illness. As of the hearing date her evaluation had not changed. She opines that he should have six to nine months of psychotherapy, and then should be allowed to practice with some supervision.

9. After Dr. Lieberman's report issued, Respondent participated in the PACE program ("Physician Assessment and Clinical Education Program) at the University of California, San Diego Medical School. He did so in approximately December 2000. The program is oriented toward assessing physicians who may have some professional shortcoming, *i.e.*, a lack of professional skill in some area; the program is also oriented

toward remediating those shortcomings that are discovered. Part of the program's standard protocol is a physical and mental exam and assessment of each physician who participates. A neuropsychologist and a psychiatrist assessed Respondent. They concluded he is not suffering from senile dementia of the Alzheimer's type, and they found him to be average to above-average in almost all areas of cognitive function. However, they did not rule out "transitive cognitive deficits from a medical illness or other cause."

10. At the hearing Respondent attested that since he has had changes in his medications—he suffers from physical conditions such as diabetes and hypolipidemia—and that he is at this point competent to practice.

11. Respondent has not actively practiced any aspect of pediatric psychiatry—his specialty—in approximately ten years. By the early 1990's he was primarily an administrator of a large practice oriented toward worker's compensation claimants.

12. The Panel concluded after reviewing the expert testimony, that Respondent is impaired mentally and/or physically, such that he is not competent at this time to practice medicine in any capacity.

13. The fact that Respondent pursued official action to establish his inability to practice medicine safely and has since recanted that position is evidence of either an ethical lapse or an underlying mental disorder that affects his ability to practice medicine safely and the Panel is unable from the record to determine which one it is. The Panel also concludes there is clear and convincing evidence that Respondent's mental condition has not been adequately diagnosed and treated. Therefore, the Panel cannot devise practice restrictions sufficient to protect the public.

LEGAL CONCLUSIONS

1. It was established that Respondent is mentally and physically impaired such that it affects his competency to practice medicine, within the meaning of Code section 822. This conclusion is based upon Factual Findings 4, 6(A) through 6(A)(v), 6(B)(i) and 6(B)(ii), 6(C)(i) through 6(C)(iii), 8(B), 8(C)(i) and 8(C)(ii), 11, 13 and the discussion below.

2. The Panel accepts for purposes of this decision the administrative law judge's conclusion that it is not entitled to recover its costs of investigation and prosecution pursuant to Code section 125.3, despite Legal Conclusions 1 and 2. The statute, in subsection (a), provides for recovery of costs from a "licentiate found to have committed a violation or violations of the licensing act" The "licensing act" for the purposes of a case against a medical doctor is the Medical Practice Act set forth in Chapter 5 of Division 2 of the Code, commencing with section 2000. Respondent was not found in violation of that act; his license is being restricted by dint of his status as a physician suffering some impairment, and that action is not taken under the substantive provision of the Medical Practice Act.

Discussion and Rationale:³

1. The Standard of Proof:

The standard (as opposed to the burden) of proof in this proceeding is that of clear and convincing evidence, to a reasonable certainty. (*Eittinger v. Bd. of Med. Quality Assurance* (1982) 135 Cal. App. 3d 853.) Complainant was therefore obligated to adduce evidence that was clear, explicit, and unequivocal—so clear as to leave no substantial doubt and sufficiently strong as to command the unhesitating assent of every reasonable mind. (*In Re Marriage of Weaver* (1990) 224 Cal. App. 3d 278.)

2. Credibility Generally:

It is settled that the trier of fact may “accept part of the testimony of a witness and reject another part even though the latter contradicts the part accepted.” (*Stevens v. Parke Davis & Co.* (1973) 9 Cal. 3d 51, 67.) The trier of fact may also “reject part of the testimony of a witness, though not directly contradicted, and combine the accepted portions with bits of testimony or inferences from the testimony of other witnesses thus weaving a cloth of truth out of selected material.” (*Id.*, at 67-68, quoting from *Neverov v. Caldwell* (1958) 161 Cal. App. 2d 762, 767.) Further, the fact finder may reject the testimony of a witness, even an expert, although not contradicted. (*Foreman & Clark Corp. v. Fallon* (1971) 3 Cal. 3d 875, 890.) And, the testimony of “one credible witness may constitute substantial evidence”, including a single expert witness. (*Kearl v. Board of Medical Quality Assurance, supra*, 189 Cal. App. 3d at 1052.)

3. Decision that Respondent is Impaired:

While the evidence is not crystal-clear as to just what Respondent’s problems have been, the evidence is quite clear that something has been seriously wrong with Respondent, such that he is not competent to practice. The evidence is also clear that something is still wrong with him. Barely four years ago Respondent testified that he did not deem himself competent to practice medicine. (See Respondent’s deposition, Exhibit 8, at page 29.) He had placed his father in a quasi-conservator’s role, all but turning over complete management of his affairs to him. (See Exhibit 8 at page 38.) He could not complete a job application or remember the names of physicians he worked with. (*Id.*, pages 44-46, and 64.)

³ The section that follows is within the ambit of Government Code section 11425.50(d), and meant to provide a discussion of legal issues raised as well as key evidence, and a rationale for the findings, conclusions, and proposed order. So far as stated, it is intended to augment credibility findings. However, the evidence and authorities referenced are not necessarily the only ones relied on in reaching the decision.

Two medical doctors, relying in part upon his description of his conditions, attested he was suffering from conditions that led them to believe he suffered from Alzheimer's. All of this was not something that Complainant just dreamed up; the evidence impeaching Respondent's competency has come from his own mouth, and his own hand. Respondent's own claims of disability constitute clear and convincing evidence of a significant impairment unless they were manufactured out of whole cloth. Such an adverse finding is not made herein, as there is evidence to support Dr. Crawford's original claims of disability, including Dr. Lieberman's diagnosis.

To be sure, other competent physicians have disagreed with those early diagnoses. However, Dr. Skorka found some objective evidence of impairment, as did Dr. Lieberman. The physicians associated with the PACE program, who disagree with the Alzheimer's diagnosis do not rule out some other malady—transitive cognitive deficits from a medical illness or other cause. (See Finding 9 and Exhibit "A".)

The diagnosis offered by Dr. Lieberman is credible, as was her testimony. It explains the symptoms attested to by Respondent, such as memory loss. Further, those symptoms, it should be recalled, were corroborated to some extent by Dr. Crawford's physician-friend, Dr. Hodash, who reported them to one of Respondent's physicians. (Finding 6(C)(iii); deposition of Dr. Walsh, Exhibit 9, at pages 18, 26-28.)⁴ It also explains the contradictory evaluations on the matter of whether Respondent suffers from Alzheimer's. Dr. Lieberman's diagnosis is consistent with the events in Respondent's life leading up to the onset of the symptoms, which included substantial business and professional setbacks, occurring in a manner which embarrassed him before his family. These setbacks, striking at the core of his self-esteem, could readily have caused a major depression, which can affect cognitive function and memory.

Respondent's current assessment of his condition was given marginal credibility, and in any event did not outweigh Dr. Lieberman's opinion, or the other evidence of impairment and incapacity. This is not really a question of his honesty as much as a question of whether he has the insight or the training to evaluate his condition. It should be noted that during his 1997 deposition he was not able to place a label on his condition as much as describe debilitating symptoms; he relied on other physicians to diagnose the condition. Several years later—during which time he has not been practicing medicine or psychiatry—he claims his symptoms are abated, and tends to offer explanations for the change that can not be given great weight in light of his seeming inability to evaluate his situation just a few years ago.

⁴ This bit of corroboration is another reason to assume that Dr. Crawford had not embarked upon some sort of charade when he claimed that he was disabled from memory problems, lack of energy, and so forth. It was such self-reported symptoms that formed much of the basis of the opinions expressed by Doctors Grabie and Walsh. And, those doctors at least entertained the notion of chronic fatigue syndrome as an explanation for the symptoms, as did Dr. Lieberman.

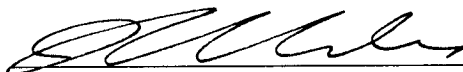
When evaluating all of the evidence in this case, is notable that there is little to corroborate Respondent's explanation as to why and how his situation is now better, and how it is that he does not have Alzheimer's after all. When Respondent brought suit to establish his disability, he swore he had certain symptoms of incompetency, and he was able to offer the testimony of two physicians who had *not* been retained for litigation, and who were *not* his friends. Four years later, he offers no corroboration for his contentions that a change in medication (and the passage of time) was all he needed. No independent evidence was offered to explain his years of disability, except to prove the diagnosis of his prior witnesses wrong. This is simply insufficient given all of the other evidence in the case.

ORDER

The Physicians and Surgeon's certificate issued to Respondent Byron Crawford, M.D. is hereby revoked.

This decision shall become effective on November 15, 2001.

IT IS SO ORDERED this 16th day of October, 2001.



HAZEM CHEHABI

Chairman, Panel A

Division of Medical Quality

Medical Board of California

**BEFORE THE
DIVISION OF MEDICAL QUALITY
MEDICAL BOARD OF CALIFORNIA
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA**


In the Matter of the Accusation Against:)	
)	MBC No. 18-1997-74448
BYRON D. CRAWFORD, M.D.)	
)	OAH No. L-1999070120
)	
)	
Respondent.)	

ORDER DELAYING DECISION

Pursuant to Business and Professions Code Section 2335 and Section 11517 of the Government Code, the Division of Medical Quality, finding that a further delay is required by special circumstances, hereby issues this order delaying the decision for no more than 30 days from **September 28, 2001**, (when the 100 day period expires) to **October 28, 2001**.

The reason for the delay is as follows: Due to a national terrorist attack on September 11, 2001, the Oral Argument scheduled for **September 12, 2001**, was canceled. Another meeting is scheduled for October 4, 2001, for the Panel to discuss and consider written and oral arguments by the parties, re-draft the decision and to serve the parties.

DATED: September 24, 2001



David T. Thornton
Chief of Enforcement
Division of Medical Quality

In the Matter of the Accusation Against:)
)
BYRON D. CRAWFORD, M.D.)
)
Physician's & Surgeon's)
Certificate No.: A-29605)
)
Respondent)

**BEFORE THE
DIVISION OF MEDICAL QUALITY
MEDICAL BOARD OF CALIFORNIA
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA**

In the Matter of the Accusation Against:)	Case No. 18-97-74448
)	
BYRON D. CRAWFORD, M.D.,)	OAH Case No.: L-1999070120
)	
Physician and Surgeon's Certificate)	
Number A-29605)	
)	
Respondent.)	
_____)	

PROPOSED DECISION

Joseph D. Montoya, Administrative Law Judge, Office of Administrative Hearings, heard this case at Los Angeles, California on February 20, 2001. Complainant was represented by Mr. Steven V. Adler, Deputy Attorney General. Respondent appeared with his attorneys, Gerry & Lear, by Mr. Edward O. Lear.

Evidence was received, the matter argued, and the case was submitted for decision on the hearing date.

The Administrative Law Judge hereby makes his factual findings, legal conclusions, and orders, as follows:

FACTUAL FINDINGS

A. Jurisdiction:

1. Complainant Ron Joseph filed the accusation in the above-captioned matter while acting in his official capacity as Executive Director of the Medical Board of California ("the Board").

2. On or about September 26, 1975, the Board issued Physician and Surgeon's Certificate number A 29605 to Respondent Byron D. Crawford, M.D. That license was in full force and effect at all times relevant to this decision, and is otherwise valid through April 30, 2001.

3. This proceeding was instituted before the Board's Division of Medical Quality pursuant to provisions of the California Business and Professions Code¹, and primarily section 822 thereof. In essence, Complainant alleged that Respondent suffers some impairment resulting from mental or physical illness, and that such affects his competency to act as a physician. Respondent denied those charges, and pursuant to the Code the matter was set for hearing before the undersigned, an administrative law judge of the Office of Administrative Hearings.

4. All jurisdictional requirements have been met in this proceeding.

B. Findings On the Charging Allegations:

5. In January 1995 Respondent Crawford filed a claim with an insurance company for payments on a disability insurance policy. His written claim, entitled "Claimant's Statement for Disability Benefits", stated Respondent was totally disabled, and unable to practice medicine or administer his medical corporation and practice. Respondent executed that claim under penalty of perjury. His insurer failed and/or refused to provide benefits under the policy, and Respondent therefor filed a lawsuit against his insurer. The suit was filed in the United States District Court for the Central District of California.²

6. During the course of the lawsuit depositions were taken of Respondent and two physicians who had examined him. All three provided evidence that Respondent was not then competent and fit to practice medicine.

(A) Respondent gave deposition testimony on February 10, 1997. In the course of his deposition, he testified that he was then not competent to practice medicine, and he provided evidence tending to establish that his abilities were impaired. He gave reasons for his belief, including:

(i) That in his then current medical or physical state, he was not competent to practice medicine, in part because he was having trouble staying awake;

(ii) That he had given his father power of attorney, to help in the management of his affairs, in part because Respondent's memory and judgment had degraded, and because Respondent's health was not up to running his medical practice;

¹ Hereafter all statutory references shall be to the Business and Professions Code, cited as "Code", along with the appropriate section number, unless otherwise noted.

² No evidence was provided regarding the outcome of the litigation.

(iii) That he had been unable to complete applications for locum tenens work because he would fall asleep while trying to complete the application;

(iv) He could not remember the name of any of the doctors who had worked with him in his clinic;

(v) That a doctor who had examined and treated him diagnosed Respondent's condition as early onset Alzheimer's.

6. (B) Two weeks after Respondent so testified, one of his physicians gave his deposition. On February 25, 1997, Dr. Morris Grabie, M.D. attested that he had examined Respondent and diagnosed him with dementia. That witness, Board-Certified in internal medicine and nephrology, further testified that:

(i) Respondent's condition was characterized by significant memory loss, including the inability to remember recent and simple events, such as why Respondent had come to the doctor's office. He further testified that Respondent could not recall information needed for day-to-day functions;

(ii) The witness was concerned that Respondent had damage to the frontal lobes of his brain, and an MRI performed by another physician showed, in the witness's opinion, conditions consistent with mild generalized cerebral atrophy;

(iii) Dr. Grabie had previously given a statement in writing to the effect Respondent was not then competent, and testified at the deposition that Respondent was not competent to practice medicine. Nor did not think it was safe for Respondent to drive his car.

6. (C) Dr. Gregory Walsh, M.D. gave his deposition April 23, 1997. Like Dr. Grabie, Dr. Walsh is also a Board-Certified physician, but in the areas of neurology and neuro-imaging. He testified at his deposition that Respondent had Alzheimer's disease. He also testified that:

(i) His opinion was based in part on evidence of brain atrophy, and he opined that Respondent should not be allowed to practice as a psychiatrist;

(ii) He also testified that Respondent was disabled from any significant cognitive function;

(iii) In part, Dr. Walsh's diagnosis was based on information provided by a physician-friend of the Respondent's, who informed the witness that Respondent's cognitive functioning had diminished.

7. The accusation in this case was filed in May 1999. Thereafter, the Board ordered Respondent to be tested by a clinical psychologist, a psychiatrist, and a physician

specializing in clinical neurophysiology. Respondent was evaluated by those professionals in July and December 1999. Their reports are at odds with the testimony of Doctors Walsh and Gracie, as these physicians do not agree with the Alzheimer's diagnosis, yet two of the three experts found the Respondent impaired to a greater or lesser degree.

8. (A) In July 1999 Dr. Baldev Rai, M.D., evaluated Respondent. Dr. Rai is Board certified in neurology, with a specialty in neurophysiology. He did not find evidence of Alzheimer's or dementia, and did not find any definite physical or mental impairment that would prevent Respondent from safely practicing medicine.

(B) In December 1999 Respondent was evaluated by Darlene M. Skorka, Ph.D., a clinical psychologist. She found some that some indicators from a measured intelligence exam were "suggestive of neuropsychological impairment." Other tests gave similar indications, of mild to moderate proportions. She could not determine if the impairment was acute or chronic, temporary or permanent. She advised that if he returned to the practice of medicine, Dr. Crawford should do so in a supervised capacity so that his performance could be evaluated.

(C) (i) Respondent was examined by Dr. Carole Lieberman, M.D., M.P.H, in July 1999. Dr. Lieberman is a psychiatrist, and she spent several hours interviewing Respondent and administering tests to him. Before issuing a written report in February 2000 she reviewed medical records and documents pertaining to the disability claim, including the transcripts of the depositions referenced above. She also reviewed the report of Dr. Melvin Schwartz, M.D., a psychiatrist that had reviewed Respondent's records for the Board, prior to instigation of this proceeding, and she reviewed the reports issued by Doctors Rai and Skorka.

(ii) Dr. Lieberman's main diagnosis was of major depression, although she did not rule out the possibility of manic-depressive illness. As of the hearing date her evaluation had not changed. She opines that he should have six to nine months of psychotherapy, and then should be allowed to practice with some supervision.

9. After Dr. Lieberman's report issued, Respondent participated in the PACE program ("Physician Assessment and Clinical Education Program) at the University of California, San Diego Medical School. He did so in approximately December 2000. The program is oriented toward assessing physicians who may have some professional shortcoming, *i.e.*, a lack of professional skill in some area; the program is also oriented toward remediating those shortcomings that are discovered. Part of the program's standard protocol is a physical and mental exam and assessment of each physician who participates. A neuropsychologist and a psychiatrist assessed Respondent. They concluded he is not suffering from senile dementia of the Alzheimer's type, and they found him to be average to above-average in almost all areas of cognitive function. However, they did not rule out "transitive cognitive deficits from a medical illness or other cause."

10. At the hearing Respondent attested that since he has had changes in his medications—he suffers from physical conditions such as diabetes and hypolipidemia—and that he is at this point competent to practice. He points to the evaluation letter from the PACE program as evidence that his is not impaired.

11. Respondent has not actively practiced any aspect of pediatric psychiatry—his specialty—in approximately ten years. By the early 1990's he was primarily an administrator of a large practice oriented toward worker's compensation claimants.

12. Respondent is impaired mentally and/or physically, such that he is not competent at this time to practice medicine in an unsupervised capacity. If allowed to practice in an unsupervised capacity, and where he is not receiving treatment for his condition, he would pose a risk to the public.

LEGAL CONCLUSIONS

1. It was established that Respondent is mentally and physically impaired such that it affects his competency to practice medicine, within the meaning of Code section 822. This conclusion is based upon Factual Findings 4, 6(A) through 6(A)(v), 6(B)(i) and 6(B)(ii), 6(C)(i) through 6(C)(iii), 8(B), 8(C)(i) and 8(C)(ii), 11, and the discussion below.

2. In order to protect the public from harm, Respondent's license should be placed on probation, subject to requirements that his mental and physical condition be monitored, and his practice supervised. This Conclusion is based on Factual Findings 4, 6(A) through 6(A)(v), 6(B)(i) and 6(B)(ii), 6(C)(i) through 6(C)(iii), 8(B), 8(C)(i) and 8(C)(ii), 11, and the discussion below.

3. The Board is not entitled to recover its costs of investigation and prosecution pursuant to Code section 125.3, despite Legal Conclusions 1 and 2. The statute, in subsection (a), provides for recovery of costs from a "licentiate found to have committed a violation or violations of the licensing act" The "licensing act" for the purposes of a case against a medical doctor is the Medical Practice Act set forth in Chapter 5 of Division 2 of the Code, commencing with section 2000. Respondent was not found in violation of that act; his license is being restricted by dint of his status as a physician suffering some impairment, and that action is not taken under the substantive provision of the Medical Practice Act.

Discussion and Rationale:³

³ The section that follows is within the ambit of Government Code section 11425.50(d), and meant to provide a discussion of legal issues raised as well as key evidence, and a rationale

Discussion and Rationale:³

1. The Standard of Proof:

The standard (as opposed to the burden) of proof in this proceeding is that of clear and convincing evidence, to a reasonable certainty. (*Eittinger v. Bd. of Med. Quality Assurance* (1982) 135 Cal. App. 3d 853.) Complainant was therefore obligated to adduce evidence that was clear, explicit, and unequivocal—so clear as to leave no substantial doubt and sufficiently strong as to command the unhesitating assent of every reasonable mind. (*In Re Marriage of Weaver* (1990) 224 Cal. App. 3d 278.)

2. Credibility Generally:

It is settled that the trier of fact may “accept part of the testimony of a witness and reject another part even though the latter contradicts the part accepted.” (*Stevens v. Parke Davis & Co.* (1973) 9 Cal. 3d 51, 67.) The trier of fact may also “reject part of the testimony of a witness, though not directly contradicted, and combine the accepted portions with bits of testimony or inferences from the testimony of other witnesses thus weaving a cloth of truth out of selected material.” (*Id.*, at 67-68, quoting from *Neverov v. Caldwell* (1958) 161 Cal. App. 2d 762, 767.) Further, the fact finder may reject the testimony of a witness, even an expert, although not contradicted. (*Foreman & Clark Corp. v. Fallon* (1971) 3 Cal. 3d 875, 890.) And, the testimony of “one credible witness may constitute substantial evidence”, including a single expert witness. (*Kearl v. Board of Medical Quality Assurance, supra*, 189 Cal. App. 3d at 1052.)

3. The Decision that Respondent Impaired Such That His License Must Be Restricted:

While the evidence is not crystal-clear as to just what Respondent’s problems have been, the evidence is quite clear that something has been seriously wrong with Respondent, such that he is not competent to practice. The evidence is also clear that something is still wrong with him. Barely four years ago Respondent testified that he did not deem himself competent to practice medicine. (See Respondent’s deposition, Exhibit 8, at page 29.) He had placed his father in a quasi-conservator’s role, all but turning over complete management of his affairs to him. (See Exhibit 8 at page 38.) He could not complete a job application or remember the names of physicians he worked with. (*Id.*, pages 44-46, and 64.)

Two medical doctors, relying in part upon his description of his conditions, attested he was suffering from conditions that led them to believe he suffered from Alzheimer’s. All of this was not something that Complainant just dreamed up; the evidence impeaching

³ The section that follows is within the ambit of Government Code section 11425.50(d), and meant to provide a discussion of legal issues raised as well as key evidence, and a rationale for the findings, conclusions, and proposed order. So far as stated, it is intended to augment credibility findings. However, the evidence and authorities referenced are not necessarily the only ones relied on in reaching the decision.

Respondent's competency has come from his own mouth, and his own hand. Respondent's own claims of disability constitute clear and convincing evidence of a significant impairment unless they were manufactured out of whole cloth. Such an adverse finding is not made herein, as there is evidence to support Dr. Crawford's original claims of disability, including Dr. Lieberman's diagnosis.

To be sure, other competent physicians have disagreed with those early diagnoses. However, Dr. Skorka found some objective evidence of impairment, as did Dr. Lieberman. The physicians associated with the PACE program, who disagree with the Alzheimer's diagnosis do not rule out some other malady—transitive cognitive deficits from a medical illness or other cause. (See Finding 9 and Exhibit "A".)

The diagnosis offered by Dr. Lieberman is credible, as was her testimony. It explains the symptoms attested to by Respondent, such as memory loss. Further, those symptoms, it should be recalled, were corroborated to some extent by Dr. Crawford's physician-friend, Dr. Hodash, who reported them to one of Respondent's physicians. (Finding 6(C)(iii); deposition of Dr. Walsh, Exhibit 9, at pages 18, 26-28.)⁴ It also explains the contradictory evaluations on the matter of whether Respondent suffers from Alzheimer's. Dr. Lieberman's diagnosis is consistent with the events in Respondent's life leading up to the onset of the symptoms, which included substantial business and professional setbacks, occurring in a manner which embarrassed him before his family. These setbacks, striking at the core of his self-esteem, could readily have caused a major depression, which can affect cognitive function and memory.

Respondent's current assessment of his condition was given marginal credibility, and in any event did not outweigh Dr. Lieberman's opinion, or the other evidence of impairment and incapacity. This is not really a question of his honesty as much as a question of whether he has the insight or the training to evaluate his condition. It should be noted that during his 1997 deposition he was not able to place a label on his condition as much as describe debilitating symptoms; he relied on other physicians to diagnose the condition. Several years later—during which time he has not been practicing medicine or psychiatry—he claims his symptoms are abated, and tends to offer explanations for the change that can not be given great weight in light of his seeming inability to evaluate his situation just a few years ago.

When evaluating all of the evidence in this case, is notable that there is little to corroborate Respondent's explanation as to why and how his situation is now better, and how it is that he does not have Alzheimer's after all. When Respondent brought suit to establish his disability, he swore he had certain symptoms of incompetency, and he was able to offer

⁴ This bit of corroboration is another reason to assume that Dr. Crawford had not embarked upon some sort of charade when he claimed that he was disabled from memory problems, lack of energy, and so forth. It was such self-reported symptoms that formed much of the basis of the opinions expressed by Doctors Grabie and Walsh. And, those doctors at least entertained the notion of chronic fatigue syndrome as an explanation for the symptoms, as did Dr. Lieberman.

the testimony of two physicians who had *not* been retained for litigation, and who were *not* his friends. Four years later, he offers no corroboration for his contentions that a change in medication (and the passage of time) was all he needed. No independent evidence was offered to explain his years of disability, except to prove the diagnosis of his prior witnesses wrong. This is simply insufficient given all of the other evidence in the case.

The public safety requires that Respondent's professional activities be monitored in some fashion to protect it from Respondent's memory problems, and inability to accomplish simple tasks, such as to prepare a locum tenens application.

ORDER

The Physicians and surgeon's certificate issued to Respondent Byron Crawford, M.D. is hereby revoked, and that revocation hereby stayed for a period of five years, subject to the following terms and conditions:

1. Within 15 days after the effective date of this decision the Respondent shall provide the Division, or its designee, proof of service that respondent has served a true copy of this decision on the Chief of Staff or the Chief Executive Officer at every hospital where privileges or membership are extended to respondent or **at any other facility where Respondent engages in the practice of medicine** and on the Chief Executive Officer at every insurance carrier where malpractice insurance coverage is extended to respondent.
2. Respondent shall obey all federal, state and local laws, all rules governing the practice of medicine in California and remain in full compliance with any court ordered criminal probation, payments and other orders.
3. Respondent shall submit quarterly declarations under penalty of perjury on forms provide by the Division, stating whether there has been compliance with all the conditions of probation.
4. Respondent shall comply with the Division's probation surveillance program. Respondent shall, at all times, keep the Division informed of his addresses of business and residence which shall both serve as addresses of record. Changes of such addresses shall be immediately communicated in writing to the Division. Under no circumstances shall a post office box serve as an address of record, except as allowed by Business and Professions Code Section 2021(b).
5. Respondent shall, at all times, maintain a current and renewed physician and surgeon license.
6. Respondent shall also immediately inform the Division, in writing, of any travel to any areas outside the jurisdiction of California which lasts, or is contemplated to last, more than thirty (30) days.

7. Respondent shall appear in person for interviews with the Division, its designee or its designated physician(s) upon request at various intervals and with reasonable notice.

8. In the event Respondent should leave California to reside or to practice outside the State or for any reason should Respondent stop practicing medicine in California, Respondent shall notify the Division or its designee in writing within ten days of the dates of departure and return or the dates of non-practice within California. Non-practice is defined as any period of time exceeding thirty days in which respondent is not engaging in any activities defined in Sections 2051 and 2052 of the Business and Professions Code. All time spent in an intensive training program approved by the Division or its designee shall be considered as time spent in the practice of medicine. A Board-ordered suspension of practice shall not be considered as a period of non-practice. Periods of temporary or permanent residence or practice outside California or of non-practice within California, as defined in this condition, will not apply to the reduction of the probationary order.

9. If Respondent violates probation in any respect, the Division, after giving Respondent notice and the opportunity to be heard, may revoke probation and carry out the disciplinary order that was stayed. If an accusation or petition to revoke probation is filed against Respondent during probation, the Division shall have continuing jurisdiction until the matter is final, and the period of probation shall be extended until the matter is final.

10. Following the effective date of this decision, if Respondent ceases practicing due to retirement, health reasons or is otherwise unable to satisfy the terms and conditions of probation, Respondent may voluntarily tender his/her certificate to the Board. The Division reserves the right to evaluate the Respondent's request and to exercise its discretion whether to grant the request, or to take any other action deemed appropriate and reasonable under the circumstances. Upon formal acceptance of the tendered license, Respondent will no longer be subject to the terms and conditions of probation.

11. The Respondent shall pay the costs associated with probation monitoring each and every year of probation. Those costs may be adjusted on an annual basis. Such costs shall be payable to the Division of Medical Quality and delivered to the designated probation surveillance monitor no later than January 31 of each calendar year. Failure to pay costs within 30 days of the due date shall constitute a violation of probation.

12. Within 60 days of the effective date of this decision, respondent shall submit to the Division or its designee for its prior approval the name and qualifications of a psychotherapist of respondent's choice. Upon approval, respondent shall undergo and continue treatment until the Division or its designee deems that no further psychotherapy is necessary. Respondent shall have the treating psychotherapist submit quarterly status reports to the Division or its designee. The Division or its designee may require respondent to undergo psychiatric evaluations by a Division-appointed psychiatrist. If, prior to the termination of probation, respondent is found not to be mentally fit to resume the practice of medicine without restrictions, the Division shall retain continuing jurisdiction over the

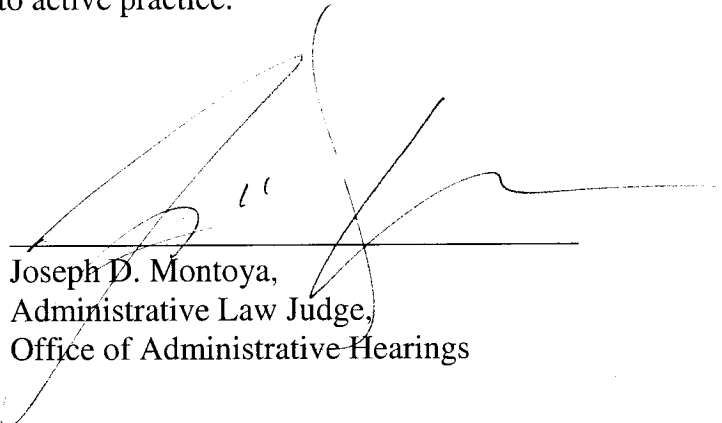
respondent's license and the period of probation shall be extended until the Division determines that the respondent is mentally fit to resume the practice of medicine without restrictions.

13. Within 30 days of the effective date of this decision, respondent shall submit to the Division or its designee for its prior approval a plan of practice in which respondent's practice shall be monitored by another physician in respondent's field of practice, who shall provide periodic reports to the Division or its designee.

If the monitor resigns or is no longer available, respondent shall, within 15 days, move to have a new monitor appointed, through nomination by respondent and approval by the Division or its designee.

14. Respondent shall be restricted to practicing no more than twenty hours per week during the first six months after his return to active practice.

March 22, 2001



Joseph D. Montoya,
Administrative Law Judge,
Office of Administrative Hearings

FILED
STATE OF CALIFORNIA
MEDICAL BOARD OF CALIFORNIA
SACRAMENTO May 12 19 99
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BEFORE THE
DIVISION OF MEDICAL QUALITY
MEDICAL BOARD OF CALIFORNIA
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

In the Matter of the Accusation) NO. 18-97-74448
Against:)

BYRON D. CRAWFORD, M.D.
2377 Birdview Ave.
Malibu, CA 90265

ACCUSATION

Physician's and Surgeon's
Certificate No. A 29605

Respondent.

Complainant Ron Joseph, as cause for disciplinary
action, alleges as follows:

PARTIES

1. Complainant Ron Joseph is the Executive Director
of the Medical Board of California ("Board") and makes and files
this Accusation solely in his official capacity.

License Status

2. On or about September 26, 1975, Physician's and
Surgeon's Certificate No. A 29605 was issued by the Board to
Byron D. Crawford, M.D. ("respondent"), and at all times relevant

1 herein, said Physician's and Surgeon's Certificate was, and
2 currently is, in full force and effect. Unless renewed, it will
3 expire on April 30, 1999.

4 **JURISDICTION**

5 3. This Accusation is made in reference to the
6 following statutes of the California Business and Professions
7 Code ("Code"):

8 A. Section 822 of the Code provides that if a
9 licensing agency determines that its licentiate's ability to
10 practice his or her profession safely is impaired because
11 the licentiate is mentally ill, or physically ill affecting
12 competency, the licensing agency may take action by any one
13 of the following methods:

14 (a) Revoking the licentiate's certificate or
15 license.

16 (b) Suspending the licentiate's right to
17 practice.

18 (c) Placing the licentiate on probation.

19 (d) Taking such other action in relation to
20 the licentiate as the licensing agency in its
21 discretion deems proper.

22 The licensing agency shall not reinstate a revoked
23 or suspended certificate or license until it has received
24 competent evidence of the absence or control of the
25 condition which caused its action and until it is satisfied
26 that with due regard for the public health and safety the

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1 person's right to practice his or her profession may be
2 safely reinstated.

3 B. Section 125.3 of the Code provides, in part,
4 that the Board may request the administrative law judge to
5 direct any licentiate found to have committed a violation or
6 violations of the licensing act, to pay to the Board a sum
7 not to exceed the reasonable costs of the investigation and
8 enforcement of the case.

9 **CAUSE FOR DISCIPLINE**

10 (Impairment)

11 4. Respondent Byron D. Crawford, M.D., is subject to
12 disciplinary action on account of the following:

13 A. On or about January 12, 1995, respondent
14 filed a "Claimant's Statement for Disability Benefits"
15 claiming, under penalty of perjury, that he was totally
16 disabled and unable to practice medicine. The claim was
17 apparently denied, and respondent filed suit.

18 B. During the litigation over denial of
19 respondent's claim, respondent was deposed on February 10,
20 1997. In that deposition, respondent testified that
21 although he renewed his medical license recently, he was not
22 competent to practice medicine "... with my current state,
23 medical state and physical state...."

24 C. Dr. G., who is Board-certified in internal
25 medicine and nephrology and was one of the physicians
26 treating respondent, was deposed on February 25, 1997.

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1 D. In his deposition, Dr. G. testified that he
2 had diagnosed respondent with dementia. Dr. G. concluded
3 that respondent's condition was characterized by, "[t]he
4 inability to remember recent and simple events. The
5 inability to recall why he has come to the office. The
6 inability to recall general items in his day-to-day
7 functioning. The inability to recall names. The inability
8 to recall why he has come to the office for an examination.
9 The inability to do other than highly specific tasks"

10 E. Dr. G. felt respondent's condition would not
11 improve and could deteriorate further.

12 F. Dr. W., who is Board-certified in neurology
13 and neuroimaging, also evaluated respondent and also gave a
14 deposition in respondent's lawsuit against his disability
15 insurer.

16 G. Dr. W. testified that respondent had
17 significant Alzheimer's, and that respondent should not be
18 allowed to practice as a pediatric psychiatrist. Dr. W.
19 found evidence both of Alzheimer's disease and brain atrophy
20 in a MRI scan of respondent's brain.

21 H. Respondent's records were then forwarded by
22 the Board to Melvin Schwartz, M.D., a Board-certified
23 psychiatrist, who reviewed them (including respondent's
24 relevant medical records).

25 I. Dr. Schwartz found that based on the records
26 and on the deposition testimony of Drs. G. and W. that
27 respondent lacks the cognitive capacity or competency to

1 practice medicine, and that "... Dr. Crawford should not be
2 permitted to pursue the practice of medicine due to his
3 reported mental and physical condition."

4 J. Dr. Schwartz also stated that respondent's
5 illness is a progressive illness and would preclude him from
6 the practice of medicine unless independent
7 medical/psychiatric examinations refute the findings of the
8 earlier examiners (Dr. G. and Dr. W.).

9 5. As a result of the conduct described in paragraph
10 4 above, respondent's license is subject to discipline pursuant
11 to Code section 822 in that respondent has been diagnosed with a
12 progressive disease or diseases which deprive him of the
13 cognitive capacity to practice medicine safely, and which
14 constitute a mental illness and/or a physical illness affecting
15 competency.

16 **PRAYER**

17 WHEREFORE, complainant requests that a hearing be held
18 on the matters alleged herein, and that following said hearing,
19 the Board issue a decision:

- 20 1. Revoking, suspending, or otherwise imposing
21 discipline, pursuant to Code section 822, upon
22 Physician's and Surgeon's Certificate
23 Number A 29605 issued to respondent Byron D.
24 Crawford, M.D.;
- 25 2. Awarding the Board its costs of investigation and
26 prosecution as provided by statute, and if

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respondent is placed on probation, requiring him
to pay the costs of probation supervision; and,
3. Taking such other and further action as the Board
deems proper.

DATED: May 13, 1999



Ron Joseph
Executive Director
Medical Board of California

Complainant

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